

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket

MATTHEUS JACOBUS VAN DER MEER

NL 030914

Confirmation No. 9392

Serial No. 10/565,931

Group Art Unit: 3724

Filed: JANUARY 20, 2006

Examiner: DEFRANK, J.S.

Title: SHAVING APPARATUS

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P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows, having filed a Notice of Appeal on January 7, 2009:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-3 and 5 are pending in this application, where claim 4 had been canceled. Claims 1-3 and 5 are rejected in the Final Office Action mailed in October 8, 2008. This rejection was upheld, in the Advisory Action that was mailed on December 19, 2008. Claims 1-3 and 5 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellant filed on December 8, 2008 an after final amendment in response to a Final Office Action mailed October 8, 2008. The after final amendment did not include any amendments. In an Advisory Action mailed on December 19, 2008, it is indicated that the after final amendment filed on December 8, 2008 does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed October 8, 2008, that finally rejected claims 1-3 and 5, which remain finally rejected in the Advisory Action mailed on December 19, 2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a shaving apparatus 1. As shown in FIG 1 and described on page 3, lines 1-24, the shaving apparatus 1 comprises at least one shaving head 3 with at least one cutter 6, a trimmer 7, and a drive structure including a motor 16 and a transmission structure 17 for driving the at least one cutter 6 and the trimmer 7. The trimmer 7 is disengageable from the drive structure.

The shaving apparatus 1 further includes reversing means, such as the motor 16 via electrical conductors 32-36, shown in FIGs 5a-5b and described from page 4, line 21 to page 5, line 5, for reversing at least a portion of the drive structure between a first sense of rotation and a second, opposite sense of rotation.

As shown in FIGs 4a-5b, and described from page 3, line 32 to page 4, line 20, the shaving apparatus further includes a unidirectional clutch 22 between at least the portion of the drive structure of which the sense of rotation is reversible and the at

least one cutter 6. The drive structure has transmission ratios for driving the trimmer 7 with a number of cycles per unit time, and for driving the at least one cutter 6 of the at least one shaving head 3 with a number of revolutions per unit time, such that the number of cycles per unit time of the driven trimmer 7 is higher than the number of revolutions per unit time of the at least one driven cutter 6.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-3 and 5 of U.S. Patent Application Serial No. 10/565,931 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,577,324 (Tanaka) in view of U.S. Patent No. 3,213,536 (Futterer).

ARGUMENT

Claims 1-3 and 5 are said to be unpatentable over Tanaka and
Futterer.

Appellant respectfully requests the Board to address the patentability of independent claim 1, and further claims 2-3 and 5 as depending from independent claim 1, based on the requirements of independent claim 1. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellant herein specifically reserves the right to argue and address the patentability of claims 2-3 and 5 at a later date should the separately patentable subject matter of claims 2-3 and 5 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claim 1 is not intended as a waiver of Appellant's right to argue the patentability of the further claims and claim elements at that later time.

Tanaka is directed to an electric shaver having a shaver head

that can be changed in its orientation so as to conform to the facial configuration. As correctly noted by the Examiner on page 2, item 5 of the Final Office Action, Tanaka does not disclose or suggest reversing rotation of anything. Futterer is cited in an attempt to remedy the deficiencies in Tanaka.

Futterer is directed to dry shaver having two cutters. A shaft is selectively rotated in either direction. The shaft is rotatable in one direction for driving the first cutter (for short hair cutting) and is rotatable in the opposite direction for driving the second cutter (for long hair cutting).

It is respectfully submitted that the Tanaka and Futterer, alone or in combination, do not teach or suggest the present invention as recited in independent claim 1, which, amongst other patentable elements, recites (illustrative emphasis provided):

wherein the drive structure has transmission ratios for driving the trimmer with a number of cycles per unit time and for driving the at least one cutter of the at least one shaving head with a number of revolutions per unit time, such that said number of cycles per unit time of the driven trimmer is higher than said number of revolutions per unit time of the at least one driven cutter.

These features are nowhere disclosed or suggested in Tanaka, Futterer, and combination thereof. Rather, at best, the combination of Tanaka and Futterer discloses a shaver with gears, as disclosed in Tanaka and recited in page 4, first paragraph of the Final Office Action, where such a shaver has two cutters rotatable in opposite direction, as disclosed by Futterer. Such a combination still does not disclose or suggest "that said number of [trimmer] cycles per unit time of the driven trimmer is higher than said number of [cutter] revolutions per unit time of the at least one driven cutter," as recited in independent claim 1. (Illustrative emphasis provided).

Page 4, paragraph one of the Final Office Action alleges that Tanaka discloses gears that slow down the cutter with respect to the motor. Further, the Advisory Action on page 2, line 6, alleges that Tanaka discloses a gear reduction system. It is respectfully submitted that these allegations are misplaced. Tanaka is completely silent about a gear reduction system that slows anything down. Rather, Tanaka merely discloses gears, namely, two bevel gears 18a, 18b, and a main gear 18c that engages three identical

transmission gears 20 for rotating inner blades 38. There is no disclosure or suggestion in Tanaka of any gears that provide any reduction in motor speed.

Further, there is no disclosure or suggestion in Tanaka of a drive structure that "has transmission ratios for driving the trimmer," as specifically recited in independent claim 1. Rather, as correctly noted by the Examiner on page 4, line 10 of the Final Office Action, the Tanaka trimmer is "directly driven by the motor," namely, through driving levers 78, 82, where the "driving lever 82 oscillates via a linkage (not illustrated) with the motor 16." (Tanaka, column 9, lines 1-3)

Accordingly, it is respectfully requested that independent claim 1 be allowed. In addition, it is respectfully submitted that claim 2-3 and 5 should also be allowed at least based on its dependence from independent claim 1.

In addition, Appellant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the


presented remarks. However, the Appellant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-3 and 5 are patentable over Tanaka and Futterer.

Thus, the Examiner's rejections of claims 1-3 and 5 should be reversed.

Respectfully submitted,

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CLAIMS APPENDIX

1. (Previously Presented) A shaving apparatus comprising:

at least one shaving head comprising at least one cutter;

a trimmer;

a drive structure comprising a motor and a transmission structure for driving the at least one cutter and the trimmer

the trimmer being disengageable from the drive structure;

reversing means for reversing at least a portion of the drive structure between a first sense of rotation and a second, opposite sense of rotation; and

a unidirectional clutch between at least said portion of the drive structure of which the sense of rotation is reversible and the at least one cutter;

wherein the drive structure has transmission ratios for driving the trimmer with a number of cycles per unit time and for driving the at least one cutter of the at least one shaving head with a number of revolutions per unit time, such that said number of cycles per unit time of the driven trimmer is higher than said

number of revolutions per unit time of the at least one driven cutter.

2.(Previously Presented) The shaving apparatus according to claim 1, wherein the reversing means co-operate with the trimmer for reversing said sense of rotation in response to an action of putting said trimmer into and out of operation.

3.(Previously Presented) The shaving apparatus according to claim 1, wherein the reversing means comprise switching circuitry for reversing the sense of operation of said motor.

Claim 4 (Canceled)

5.(Previously Presented) The shaving apparatus according to claim 1, wherein a portion of the transmission structure for driving the trimmer branches off from a portion of the transmission structure for driving said at least one cutter at a shaft coupled to be directly driven by the motor.

EVIDENCE APPENDIX

None

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Appeal Brief in Reply to Final Office Action of October 8, 2008,
and Advisory Action of December 19, 2008

RELATED PROCEEDINGS APPENDIX

None